

Appl. No. 10/764,190
Docket No. 9495
Amdt. dated December 30, 2009
Reply to Office Action mailed on September 30, 2009
Customer No. 27752

REMARKS

Claim Status

Claims 19 and 20 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 4-12, 17 and 18 are canceled herein without prejudice to Applicant's rights to present the same or similar claims at another time.

Claims 2, 3 and 13-16 were previously canceled without prejudice.

Claim 19 is amended. Support for the amendment is found in original Figs. 2-7, replaced by amended Figs. 2-7 (filed August 9, 2006).

Claim 20 is new. Support for new Claim 20 is found in found in the specification at, *inter alia*, page 1, line 18 – page 2, line 2; page 3, lines 18-21; page 4, lines 5-11; page 7, lines 16-23; and Figs. 2-4 and 6.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Objections To Drawings

The drawings are subject to an objection set forth at page 2 of the Office Action dated 9/30/09. The Office asserts that the lateral support member resting downwardly upon the vertical support members (as recited in the claims) must be shown.

In response, Applicant respectfully traverses the objection in part and responds in part by amendment to Claim 19 and canceling claims 1, 4-12, 17 and 18 herein.

With respect to the elements of Claim 19, Applicant submits that original and amended Figs. 2-7 each show a lateral support member (in the perspective views of the examples shown in Figs. 2-4 and 6, the topmost member having a wavy or serpentine configuration; in the side elevational views of the examples shown in Figs. 5 and 7, the topmost member shown extending to the right). Applicant respectfully submits that Figs.

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2-7 each show vertical support members (in all views of the examples shown, the vertically-oriented members shown extending upwardly from a shelf surface).

With respect to the current amendment to Claim 19 (each recited shelf display apparatus resting downwardly upon the recited shelf), Applicant respectfully submits that a person of ordinary skill in the art would understand from the figures that the apparatuses shown rest downwardly upon the shelf shown, by force of gravity.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection.

Objections To Specification

The amendment filed August 18, 2009 is subject to an objection set forth at page 3 of the Office Action. The Office asserts that the amendment introduces new matter into the disclosure.

In response, Applicant respectfully traverses in part, and responds in part by amendment to Claim 19 and canceling claims 1, 4-12, 17 and 18 herein.

Pending Claim 19 is amended to delete the phrase “and resting downwardly upon and vertically compressing” where indicated, which Applicant submits addresses and overcomes the objection.

With respect to the added phrase “resting downwardly upon said shelf,” now used in Claim 19 to characterize a relationship between the recited shelf display apparatuses and shelf, Applicant respectfully submits that this relationship, although not explicitly described in the original descriptive text, is inherently disclosed in the originally filed Figs. 2-7, replaced by amended Figs. 2-7 (filed August 9, 2006). Applicant submits that a person of ordinary skill in the art would readily understand from the figures that the display apparatuses shown in the figures necessarily rest downwardly upon the shelves shown in the figures, by force of gravity. Thus, no new matter is present. *See* MPEP §2163.07(a).

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection.

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Rejection Under 35 U.S.C. §112, First Paragraph

Claim 19 stands rejected under 35 U.S.C. §112, first paragraph. The Office asserts that it is unclear how the lateral support member's length rests downwardly upon the first and second vertical support members since this is not shown in the drawings or clearly explained in the specification.

Based upon the discussion of the figures set forth in the preceding two sections, and the amendment of Claim 19 herein, Applicant respectfully submits that the rejection is moot, and requests reconsideration and withdrawal of the same.

Rejections Under 35 U.S.C. §103(a)

All pending claims except Claim 19 stand rejected under 35 U.S.C. §103(a).

Without conceding the correctness of the rejection or waiving any arguments he otherwise may have, Applicant herein cancels the rejected claims, without waiving his rights to present the same or similar claims at another time.

Indication Of Allowable Subject Matter

The Office indicates that Claim 19 in its previously presented form would be allowable if objections are overcome.

Based upon the discussion set forth above, Applicant believes that the objections are overcome.

Applicant submits that the amendment to Claim 19 herein does not alter its scope in a manner that renders it unpatentable over the prior art of record, and thus, that currently amended Claim 19 is allowable.

Patentability Of New Claim 20

New Claim 20 is similar to amended Claim 19, except for the details of the recited package element and its orientation on the recited shelf. *Compare* last two indented portions of respective Claims 19 and 20.

In addition to the recited shelf and shelf display apparatuses structure, new Claim 20 includes additional elements of a store display which are not taught or suggested in the

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prior art of record. Those elements include at least one package containing articles, the package being disposed between the lateral support members of the first and second shelf apparatuses, the package being formed of flexible film and having an outer surface, a first portion of the outer surface contacting the lateral support member of the first shelf display apparatus, a second portion of the outer surface contacting the lateral support member of the second shelf display apparatus, and a third portion of the outer surface resting on the shelf, wherein the lateral support members provide horizontal, two-dimensional support to the package such that the package is held in a substantially upright position on the shelf.

Conclusion

This response represents an earnest effort to place the present application in proper form for allowance. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claim are respectfully requested.

Respectfully submitted,

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